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August 14, 1954
Letter Opinion
No. 54-208-L

Brig. Gen. Frank E. Fraser, NG Az.
The Adjutant General
State of Arizona
Military Department
747 West Van Buren Street
Phoenix, Arizona

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ARIZONA ATTORNEY GENERAL

Re: National Guard Officers'
Uniform Allowance

Dear General Fraser:

This is in reply to your letter of July 21, 1954, in which you raise the following question: Is a retired National Guard officer eligible to receive the uniform allowance?

Section 64-1013, A.C.A. 1939, as amended, which was passed in 1952, reads in pertinent part as follows:

"64-1013. Officer's equipment allowances.
--An officer commissioned or warranted in the national guard or Arizona state guard shall, upon acceptance of federal recognition and submission to the adjutant general of satisfactory evidence of purchase of the uniform and equipment required, receive an allowance therefor of seventy-five dollars (\$75.00). An officer uniformed and equipped in a manner approved by the adjutant general shall as long as he continues to hold his commission in the active national guard or Arizona state guard, receive an additional sum of sixty dollars (\$60.00) on each anniversary or his federal recognition, * * *." (Emphasis supplied)

You will see from the foregoing that the only officers entitled to receive uniform allowances are those officers in the active National Guard or the Arizona State Guard. There is

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at the present time no Arizona State Guard, so the uniform allowance is available only to active National Guard officers.

It has been suggested that by the terms of Section 64-1019(b) A.C.A. 1939, as amended, an officer retired from the National Guard, due to age, might still be eligible for a uniform allowance. This section reads as follows:

"64-1019. Retirement.--* * *

(b) An officer of the national guard whose federal recognition shall terminate or be withdrawn because of age or physical disability shall retain his commission and rank for life. He shall be an honorary member of the staff of the adjutant general, and shall serve in an advisory capacity, but shall receive no compensation for such service." (Emphasis supplied)

It is apparent from the wording of the foregoing section that the commission for life does not entitle a retired officer to the pay and allowance received by active officers, particularly in the light of the statement that honorary members of the staff of the Adjutant General shall receive no compensation for their services.

It is the opinion of this office, therefore, in view of the clear language of the foregoing statutes, that retired officers of the National Guard are not entitled to the uniform allowance provided for in Section 64-1013, supra.

If we may be of any further service in this or any other matter, please do not hesitate to call upon us.

Very truly yours,

R. DEAN BURCH
Special Assistant to
The Attorney General

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